

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NEWPORT NEWS DIVISION
In Admiralty**

**TROY D. DWYER, derivatively on
Behalf of Quinby Allie, LLC and
Bella Sky, LLC,**

and

Civil No: 4:21-cv-37

TROY D. DWYER, individually,

Plaintiffs,

v.

**L.D. AMORY AND COMPANY, INCORPORATED,
a Virginia corporation,**

QUINBY J. AMORY,

and

C. MEADE AMORY,

Defendants, and

**QUINBY ALLIE, LLC,
a Virginia limited liability company,**

and

**BELLA SKY, LLC,
a Virginia limited liability company,**

Nominal Defendants.

**PLAINTIFFS' ANSWER, DEFENSES, AND AFFIRMATIVE DEFENSES TO
L.D. AMORY AND COMPANY INCORPORATED'S COUNTERCLAIM**

Plaintiff/Counterclaim Defendants, Quinby Allie, LLC and Bella Sky, LLC (collectively, "Counterclaim Defendants"), by and through counsel, and respond to the Counterclaim of Defendant, L.D. Amory and Company, Inc. (D.E. 84), as follows:

ANSWER TO COUNTERCLAIM

1. Counterclaim Defendants incorporate by reference each and every allegation in their Amended Complaint (D.E. 83), as if fully set forth herein.
2. Paragraph 2 does not include any details concerning the alleged “substantial sums of money” owed and therefore Counterclaim Defendants deny the allegations contained therein.
3. Paragraph 3 does not include any details concerning the alleged “substantial sums of money” owed and therefore Counterclaim Defendants deny the allegations contained therein.
4. Paragraph 4 does not include any details concerning the alleged “substantial sums of money” owed and therefore Counterclaim Defendants deny the allegations contained therein.
5. Counterclaim Defendants admit that L.D. Amory and Company, Inc. asserted liens against the Vessels but deny the validity of said liens.
6. Admitted.
7. Admitted.
8. Admitted.
9. Admitted.
10. Paragraph 10 is a conclusion of law and a prayer for relief to which no response is required.
11. Paragraph 11 is a conclusion of law and a prayer for relief to which no response is required. To the extent a response is required, the Counterclaim Defendants deny that L.D. Amory and Company, Inc. is owed the amount of money claimed.

12. The Counterclaim Defendants deny that L.D. Amory and Company, Inc. is owed the amount of money claimed in Paragraph 12.

DEFENSES AND AFFIRMATIVE DEFENSES

1. Any allegations not expressly admitted are denied.
2. L.D. Amory and Company, Inc. is not entitled to the relief requested in its Counterclaim.
3. Counterclaim Defendants incorporate the allegations contained in the Amended Complaint (D.E.83) herein by reference.
4. Counterclaim Defendants state that any assertions of default by L.D. Amory and Company, Inc. are false and fraudulent.
5. Counterclaim Defendants state that L.D. Amory and Company, Inc.'s claims are barred as any alleged damages were caused by its own actions or omissions and/or the actions or omissions of a third party (including but not limited to L.D. Amory and Company, Inc.'s agents, servants, employees, or representatives).
6. Counterclaim Defendants state that L.D. Amory and Company, Inc.'s claims are barred by its own breach of contract and/or misrepresentations.
7. Counterclaim Defendants state that L.D. Amory and Company, Inc.'s claims for recovery are barred under the rule of advances because of the close relationship between L.D. Amory and Company, Inc. and the Vessel owner.
8. Counterclaim Defendants state that L.D. Amory and Company, Inc. is barred from recovery by the doctrines of waiver and/or release.
9. Counterclaim Defendants state that L.D. Amory and Company, Inc. is barred from recovery by the doctrines of estoppel and/or laches.

10. Counterclaim Defendants state that L.D. Amory and Company, Inc.'s claims are barred by the doctrine of unclean hands.
11. Counterclaim Defendants state that L.D. Amory and Company, Inc.'s claims are barred and/or the Counterclaim Defendants are entitled to an offset of any alleged damages due to L.D. Amory and Company, Inc.'s failure to mitigate its losses and maintain its interests.
12. Counterclaim Defendants state that L.D. Amory and Company, Inc.'s claims are barred since they did not enter into a formal contract or other type of agreement with L.D. Amory and Company, Inc. for the ongoing payment of the Vessels' operating expenses.
13. Counterclaim Defendants state that L.D. Amory and Company, Inc.'s claims are barred as L.D. Amory and Company, Inc. has not acted in good faith.
14. Counterclaim Defendants state that if they ever owed L.D. Amory and Company, Inc. anything, the same has been paid in full and L.D. Amory and Company, Inc. is owed nothing.
15. Counterclaim Defendants state that to the extent that it had any obligations to L.D. Amory and Company, Inc., then such obligations have been fully, completely, and properly performed in every respect.
16. Counterclaim Defendants state that they are entitled to a set-off against any Judgment for amounts previously paid to L.D. Amory and Company, Inc.
17. Counterclaim Defendants state that L.D. Amory and Company, Inc. failed to give timely notice of its alleged damages and the Counterclaim Defendants have been prejudiced thereby.

18. Counterclaim Defendants state that its performance under any agreement between it and L.D. Amory and Company, Inc. is excused due to L.D. Amory and Company, Inc.'s breach.

19. Counterclaim Defendants reserve the right to supplement these affirmative defenses as discovery is ongoing.

WHEREFORE, Counterclaim Defendants pray the counterclaim be dismissed and that they have their costs, attorneys' fees, and such other and further relief as may be just and proper. Respectfully submitted on March 14, 2023.

Bella Sky, LLC and Quinby Allie, LLC

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Certificate of Service

I hereby certify that on this 14th day of March 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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